

KENTUCKY HEALTH BENEFIT EXCHANGE ADVISORY BOARD

QUALIFIED HEALTH PLANS SUBCOMMITTEE

Meeting Minutes

February 28, 2013

Call to Order and Roll Call

The sixth meeting of the Qualified Health Plans Subcommittee was held on Thursday, February 28, 2013, at 11:30 a.m. in the Small Conference Room at the Office of the Kentucky Health Benefit Exchange. Carl Felix, acting on behalf of Deborah Moessner, Chair, called the meeting to order at 11:32 a.m., and the Secretary called the roll.

Subcommittee Members Present: Jeffrey Bringardner (by phone), Ruth Brinkley (by phone), Julia Costich, Nick D'Andrea, Carl Felix, Nancy Galvagni, Shelley Gast (by phone), Dr. Michael Huang, Dr. Amanda Howell (by phone), and Ramona Osborne. Greg Baker, Dr. Joe Ellis, Donna Ghobadi, Bob McFalls, Mike Minor, Dr. Andrew Slavik, and Joe Smith were not present at the meeting.

Staff Present: Carrie Banahan, Lee Barnard, Tammy Bullock, Reina Diaz-Dempsey, Miriam Fordham, Wanda Fowler, Kris Hayslett, Bill Nold, Brenda Parker, Vanessa Petrey, Sherilyn Redmon, Melea Rivera, Gary Smith, and D.J. Wasson (DOI).

Approval of Minutes

A motion was made to accept the minutes of the January 24, 2013, meeting as submitted, seconded, and approved by voice vote.

Update on Exchange Approval Activities

Bill Nold, Deputy Executive Director, Office of the Kentucky Health Benefit Exchange (KHBE), reported that the KHBE continues to meet with the U.S. Department of Health and Human Services (HHS) about the next steps in receiving final approval for Kentucky's Exchange. KHBE staff attended a meeting in Baltimore with staff from the Center for Consumer Information and Insurance Oversight (CCIIO) and other State-based Exchanges (SBE). The meeting provided an opportunity to exchange information, see how other states are approaching implementation, and judge how Kentucky stands relative to other SBEs. Mr. Nold stated that, in his estimation, Kentucky was in the middle of the pack of the SBEs. In many respects, Kentucky is having less difficulty in moving forward due to the development of the Exchange and the new Medicaid eligibility system. Many states are having difficulty in getting buy-in from their Medicaid programs. As a result of the conference, there is now a network of SBEs to share information.

The KHBE had an informal guidance call with CCIIO about the determination of exemptions from the individual mandate. Exemptions may be made for financial hardship and religious conscience reasons. HHS has issued some guidance on the process for some exemptions to go through Exchange or the Internal Revenue Service. Religious conscience exemptions and financial hardship exemptions are processed through the Exchange. The Exchange then sends the request to HHS and HHS advises the Exchange of its decision. The Exchange does not make the determination; the Exchange only sends request to HHS.

HHS has issued additional regulations regarding market rules, rating areas, and standalone dental plans. D. J. Wasson, Department of Insurance (DOI), reported that the DOI is working with its actuaries to determine the comments to be submitted to HHS on the proposed market rules. The proposed rules for rating areas had determined that a state could have no more than seven rating areas; however, Kentucky uses the eight Medicaid regions as its rating areas. The final rule issued on rating areas determined that a state's rating areas in effect prior to January 1, 2012, could be maintained. Kentucky, through the DOI, now has to notify HHS that the state's process for determining the eight rating areas was in effect prior to January 1, 2012.

Under the Affordable Care Act (ACA), the Exchange can offer a qualified health plan (QHP) that does not include pediatric dental benefits, provided there is a standalone dental plan in the Exchange available for purchase. However, outside the Exchange, a QHP has to include all 10 essential health benefits. This difference in policy between the standalone dental plans offered inside and outside the Exchange has created concerns about adverse selection. The final rule on standalone dental plans states that the same policy established in the ACA applies regarding standalone dental plans; however, outside the Exchange, an insurer can sell a policy without pediatric dental benefits if the insurer is reasonably assured that the person purchasing the plan has a pediatric dental plan of the same type as a plan approved for purchase inside the Exchange. CCIIO had a discussion with states about the new dental rules. One concern raised by states is that standalone dental plans are excepted benefits and as such do not have to follow all the market rules, including guaranteed issue. Mr. Nold stated that this raises the question of whether the Exchange can require guaranteed issue of dental plans offered on the Exchange. Carl Felix stated that this new policy impacts insurers' submission of plans. Ms. Wasson stated that these questions are being considered, and the DOI is working on figuring out how this all fits together.

Qualified Health Plan Administrative Regulation Draft

Members reviewed a revised draft of the QHP administrative regulation. Mr. Nold noted that the draft administrative regulation incorporates the subcommittee discussions regarding plan limits and catastrophic plans and tries to be consistent with the Kentucky Insurance Code and its regulations, as well as federal standards. Mr. Nold requested that members provide feedback to the KHBE regarding the draft regulation. Mr. Nold also noted that the draft regulation does not include any provisions regarding dental plans as the KHBE was waiting for further guidance from HHS; however, the latest guidance will be incorporated in the final QHP administrative regulation. Mr. Nold also explained that the draft QHP regulation requires an issuer to offer a QHP on a statewide basis provided at least one QHP is offered statewide. Mr. Felix asked how issuers would know there is a QHP being offered statewide. Mr. Felix further stated that the

requirement impacts rate filings submitted by issuers and that issuers would be filing in an unknown environment.

Task Force Recommendations

Mr. Felix reported on the recommendations put forth by the QHP Task Force regarding future effective dates, essential health benefits, plan limits, and catastrophic plans. Mr. Nold asked for clarification as to whether an individual could extend his or her future effective date beyond the minimal effective date. A representative from Anthem commented that an individual could have a future effective date of 60 days for any special enrollment with a total time for effective date coverage of 90 days. Mr. Felix questioned the need a longer effective date, particularly in light of the Advanced Premium Tax Credits and commented that keeping the window as tight as possible would be preferable.

After further discussion, the subcommittee members recommended: for future effective dates, there should be a maximum of 90 days allowed from the filing of an application and no more than 90 days allowed for special qualifying events. For applications filed between the first and fifteenth of the month, the effective date will be the first of the following month. For applications filed between the sixteenth and the end of the month, the effective date will be the first of the second month following the filing of the application (with the exception of special circumstances). For those applicants who do not submit a premium payment at the time of the application, the KHBE should follow the guidelines issued for Federally-facilitated Exchanges which allow the effective date to vary by issuer.

The subcommittee also recommended that the KHBE should: maintain the eight Medicaid regions as the rating areas; limit the number of plans offered by an issuer to no more than four per metal level; and require issuers to offer one catastrophic plan in addition to the four per metal level plan limit. The subcommittee also recommended that standalone dental plans that exceed the dental benefits offered in the standard Essential Health Benefits package should not be offered on the Exchange.

Mr. Felix reported that the Task Force could not reach consensus on a recommendation regarding service areas. The Kentucky Association of Health Plans submitted a letter to the subcommittee recommending that the KHBE follow the same service area requirements as currently established and permitted by the DOI which allows a service area for a particular product on a per county basis. Mr. Felix again voiced concerns regarding how an issuer trying to create a submission for DOI and the Exchange is going to know whether there is a product being offered statewide. Jeff Bringardner asked if an issuer could submit a conditional filing. Mr. Nold commented that a conditional filing is a strange concept for the DOI. Ms. Wasson noted that the DOI does not approve plans based on geographic regions and was unsure how the DOI would implement a statewide requirement. Ms. Wasson commented that the DOI will allow for a service area on a county-by-county basis. Mr. Nold noted that there is federal guidance on service areas less than statewide and that a service area can be on the basis of a county, less than a county, or a Metropolitan Statistical Area (MSA), and that states have flexibility to allow a service area on a county basis provided there is a QHP offered on a statewide basis.

A motion to accept the task force recommendations as clarified by earlier statements on the effective dates was made, seconded, and approved by voice vote.

Other Business

The next meeting of the subcommittee will be held on March 28, 2013, at 11:30 a.m. at the Office of the Kentucky Health Benefit Exchange.

Mr. Felix raised the issue of how wellness credits would be applied to different plans and managing the credits at the product level if an employer picks different products from different payers. Mr. Nold noted that no guidance on this issue has been issued by HHS. Carrie Banahan, Executive Director, KHBE, stated that an inquiry would be sent out to other states to find out how they are handling the issue.

Adjournment

The meeting adjourned at 12:30 p.m.